

STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

HAIR & SCALP CLINIC OF OHIO, INC.
Respondent.

90 BAC 9

The parties to this action of the purposes of §227.53, Wis. Stats., are:

Hair & Scalp Clinic of Ohio, Inc.
633 West Wisconsin Avenue, Ste. 1516
Milwaukee, WI 53203

Wisconsin Barbering and Cosmetology Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Hair & Scalp Clinic of Ohio, Inc., is and was at all times relevant to the facts set forth herein a barbering and cosmetology establishment licensed in the State of Wisconsin pursuant to license #9765.
2. The Respondent did, as long ago as 11/6/88 conduct an advertising campaign in newspapers and by statements to customers by employees, which included statements which were not supported by recent research or data.

the skin and skull is a factor in balding or thinning hair, that untreated dandruff will lead to hair loss or premature balding or any statement that is untrue, misleading or deceptive.

d. that Rogaine or other treatments are effective or ineffective, or have a certain success rate, unless the statement includes a statement concerning the definition of effectiveness which relates effectiveness to the amount of regrowth and the length of treatment involved.

e. that respondent has any particular rate of success, unless it has conducted statistical research to substantiate such a claim and unless such research is made available to clients. In all advertising which makes such a claim, the respondent shall include in the advertisement the statement "Study available upon request" or similar wording. All such studies or research shall be filed with the board within 30 days of receipt by respondent, regardless of outcome.

f. that respondent's programs or treatments are approved, prescribed, or recommended by a doctor or physician, unless such is actually the case and respondent has on file a document signed by a physician licensed to practice in the United States that respondent's program or treatment is safe and effective. Such document shall be shown to any client and the board upon request.

IT IS FURTHER ORDERED, that respondent shall, in its training materials, use no textbooks or excerpts from textbooks which are more than five years old, and shall make every effort to use only materials which set forth the current state of knowledge about hair and skin anatomy, physiology, and pathology. All materials shall include a complete source reference, including the publication date. Further, respondent shall ensure that there is a reasonable program of continuing education of its staff, licensed or not, which informs staff of new developments and research into the area of the causes and treatment of hair loss.

IT IS FURTHER ORDERED, with the express understanding that respondent has and does already do so, that respondent, if it photographs clients for purposes of determining the effectiveness of respondent's program, shall make every effort to ensure that all such photographs are taken under standardized conditions of light, background, film, exposure, and focus, and that the film is developed in a standardized manner. All advertising photographs shall contain truthful captions and shall not be misleading, deceptive, or otherwise untruthful in context. Respondent shall not use the photograph of any female's head or hair in any advertisement without clearly stating that the photograph is of a female.

IT IS FURTHER ORDERED, with the express understanding that respondent has never and does not now use UV-B light, that respondent shall use no treatment or equipment which emits ultraviolet light "B" type radiation (commonly known as UV-B light), and shall not display or use a microscope, or state or imply to clients or prospective clients that it will examine hair under the microscope or diagnose hair condition from such examination, unless such examination and diagnosis is done by a licensed physician.

IT IS FURTHER ORDERED, that respondent or its employees or agents must be able to inform and discuss with their clients all those services which they are competent to perform by training or experience and are licensed to provide, as defined in sec. 454.01(5), Stats., the statutory definition of barbering or cosmetology and in Chapter BC 5, Wis. Adm. Code, the Board's administrative rules which specify courses of instruction for schools which provide instruction to students for cosmetology practitioners or managers licenses. It is expressly understood that respondent may, as the law permits, advertise and discuss with its clients, hair conditioning and hygiene, conducive to normal hair growth.

IT IS FURTHER ORDERED, that respondent shall pay the costs of this proceeding in the amount of \$2000, within 45 days of this order, and that such shall never be considered a criminal forfeiture.

Dated this 9th day of December, 1991.

WISCONSIN BARBERING AND COSMETOLOGY EXAMINING BOARD

By: Henry H. Doores
a ~~member~~ of the Board

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STATE OF WISCONSIN
BEFORE THE BARBERING AND COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

STIPULATION

HAIR & SCALP CLINIC OF OHIO, INC.
Respondent.

90 BAC 9

It is hereby stipulated between the above Respondent, personally on its own behalf, and the Department of Regulation and Licensing, Division of Enforcement by its undersigned attorney as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Respondent by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the necessity of a hearing on the formal complaint which has been filed in this matter.
2. Respondent is aware and understands his rights with respect to disciplinary proceedings, including the right to a statement of the allegations against him; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel attendance of witnesses by subpoena; the right to testify itself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Statutes, and the Wisconsin Administrative Code.
3. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above with the exception of the last clause, on the condition that all of the provisions of this Stipulation are approved by the Board.
4. Respondent is aware of his right to seek legal representation and has obtained legal advice prior to execution of this Stipulation.
5. With respect to the attached Final Decision and Order, Respondent admits the facts set forth in the Findings of Fact, and further agrees that the Board may reach the conclusions set forth in the Conclusions of Law, and may enter the Order.

Stipulation

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6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings.

7. If the Board accepts the terms of this Stipulation, the parties to this Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

8. Respondent agrees that an attorney for the Division of Enforcement may appear at any deliberative meeting of the Board, in open or closed session, without the presence of the Respondent or Respondent's attorney, with respect to this Stipulation but that appearance is limited to statements solely in support of this Stipulation, and to answering questions asked by the Board and its staff, and for no other purpose.

9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

10. Respondent is informed that should the board adopt this stipulation, the board's final decision and order adopting the terms of the stipulation shall be published in the Monthly Disciplinary Report issued by the department, and an accurate summary of the order adopting the terms of the stipulation shall be published in the Wisconsin Regulatory Digest issued semiannually by the department, all of which is standard Department policy and in no way specially directed at Respondent.

HAIR & SCALP CLINIC, INC., BY:

Harry T. Campion
Harry T. Campion, President

11/4/91
Date

Jeanine Larson
Jeanine Larson, Attorney for Respondent

11/5/91
Date

Arthur Thexton
Prosecuting Attorney, Arthur Thexton
Division of Enforcement

11/6/91
Date

NOTICE OF APPEAL INFORMATION

**(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each, and the identification
of the party to be named as respondent)**

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with The State Of Wisconsin Barbering and Cosmetology Examining Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon The State of Wisconsin Barbering and Cosmetology Examining Board

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following:

The State of
Wisconsin Barbering and Cosmetology Examining Board.

The date of mailing of this decision is December 10, 1991.